

**ONE HUNDRED FIRST LEGISLATURE - FIRST SESSION - 2009**  
**COMMITTEE STATEMENT**  
**LB647**

---

**Hearing Date:** Tuesday February 10, 2009  
**Committee On:** Urban Affairs  
**Introducer:** Christensen  
**One Liner:** Provide requirements for notice to property owners of city and village annexation proceedings

---

**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

---

**Vote Results:**  
**Aye:** 6 Senators Coash, Cook, Friend, Lathrop, Rogert, White  
**Nay:**  
**Absent:** 1 Senator McGill  
**Present Not Voting:**

---

**Proponents:**  
Senator Christensen

**Representing:**  
Introducer

**Opponents:**

**Representing:**

**Neutral:**  
Gary Krumland  
Katie Zulkoski  
Rex Moats

**Representing:**  
League of NE Municipalities  
NE Land Title Association  
Self

---

**Summary of purpose and/or changes:**

This bill deals with annexation, proposing to provide requirements for notice to property owners of annexation proceedings regarding their property. The bill is applicable to all first and second class cities and villages.

The legislation proposes a totally new section of statutes that would, for the first time, require first and second class cities and villages to provide notice to property owners when their property was the subject of a proposed annexation. The notice comes out at two different stages of the process.

The language in the bill substantially parallels the language found in section 14- 420 governing metropolitan class cities. That section (adopted in 1993 in LB 367) provided notice requirements for owners of property located within prescribed distances from property which was the subject of a zoning change.

Subdivision 1 of the section simply states the requirement for notice as set out generally in the section. Notice is mandatory.

Subdivision 2 provides that the initial notice of a proposed annexation is sent to owners of property in the area proposed for annexation by regular United States mail to the address of the owner as it appears on the record of the register of deeds. The notice must be postmarked at least ten working days prior to the planning commission public hearing on the proposed annexation (Sec. 19-929(1) specifically provides that, with regard to these classes of cities, the governing body of the city cannot proceed to a final vote on an annexation ordinance until it has received a recommendation from its planning commission). In addition, the same notice must be sent by certified mail, return receipt requested, to the clerk of any sanitary and improvement district which is, in whole or in part, part of the proposed annexation.

The notice shall describe the area proposed for annexation must include the date, time, and location of the planning commission hearing and how the recipient of the notice can obtain further information about the annexation proposal (telephone number, e-mail address, website, etc.).

---

Subdivision 3 provides for notice of the same sort as required in subdivision 2 to be sent to the same property owners who received notice pursuant to subdivision 2 at least ten working days before the public hearing before the municipality, governing body on the proposed annexation. The notice would include the same information as required by subdivision 2 (except as to the governing body instead of the planning commission).

Subdivision 4 provides that no additional notice beyond what is set out in subdivisions 2 or 3 is required if the planning commission or governing body public hearing is adjourned, continued, or postponed until a later date.

Subdivision 5 provides that (in the absence of a willful or deliberate failure to cause notice to be given) no municipal annexation decision shall be void, invalidated, or affected in any way by any irregularity or defect to cause notice to be given as required by this section if a reasonable attempt to comply was made.

No action to challenge the validity of any annexation on the basis of this section can be filed more than one year following the date of final governing body action on the annexation.

Subdivision 6 provides that (in the absence of a willful or deliberate failure to cause notice to be given) the municipality or its employees are not liable for any damages resulting from the failure to provide notice as required by this section if a reasonable attempt to provide notice was made. Again, no action for damages resulting from the failure to provide notice may be filed more than one year following the date of final action by the governing body.

Subdivision 7 establishes that for the purpose of providing notice, ownership of property is determined as ownership is indicated in the records of the office of the register of deeds no earlier than the last business day before the twenty-fifth day preceding the planning commission public hearing on the proposed annexation.

---

**Explanation of amendments:**

Concerns were raised regarding the mailed notice, specifically that the address of the property owner might not be discoverable from the records of the register of deeds.

To address that concern, the committee amendments would authorize the clerk of the city or village to determine the address from another official source (such as the county assessor) as well as from the register of deeds.

---

Mike Friend, Chairperson